

Your World First

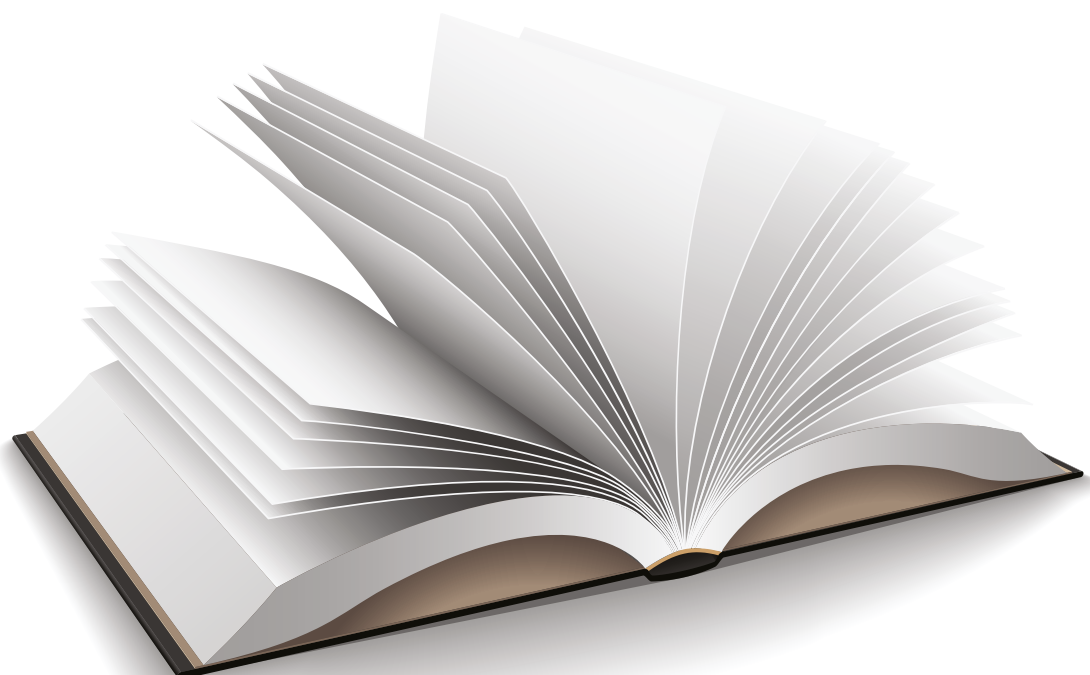


# (e-)Publishing

Our services for clients working in the publishing space



This is a challenging and exciting time for the publishing industry, with a continued focus on the digital marketplace, brand and consolidation. The term 'publishing industry' no longer just embraces traditional publishing houses, but also covers new players moving into the e-retail and digital space, whether in relation to books, journals, newspapers or educational resources. Whatever your status in the industry, you need to understand how the law affects your ability to embrace the current opportunities. At CMS, our team of sector experts – including a published novelist – from across practice groups knows how to put you in the best legal position to support you in these developments, delivering practical and commercially relevant results suited to your industry. From recruitment of digital experts, to protection of IP in e-book platforms; from VAT on sales, to legal issues in use of social media to boost discoverability, to acquisitions of a new division, our lawyers can help you. Our status as a trade affiliate of the Publishers Association is a recognition of our experience in the sector.



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## Key current issues and how we can help

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### New copyright exceptions



On 27 March 2014, the Government issued the draft Exceptions to Copyright Regulations which, if approved by parliament, are due to come into force on 1 June 2014. The changes aim to make copyright law more suitable for the digital age by permitting minor and reasonable acts of copying. We can highlight the exceptions that are likely to affect the publishing industry.

### Defamation Act 2013



The new Defamation Act which came into force on 1 January 2014 introduces a requirement for claimants to demonstrate that serious harm was caused by the defamatory statement. The Act also includes a more flexible public interest defence. These changes favour publishers as they are likely to discourage claimants from bringing vexatious claims. We can help you navigate the law on defamation, whether you wish to stave off or make a claim.

### Gathering and ownership of customer data



There are now more ways than ever to gain details of customers and potential customers on-line. However, gathering this data and the question of who owns it raises legal issues of privacy, advertising and database rights. We can ensure you are clear on this before engaging in new activity or arrangements, and negotiate agreements to protect your interests.

### Issues in M&A



With the increased amalgamation of publishers – Penguin Random House, HarperCollins and Harlequin – there come not only standard M&A issues, but also questions of competition law, regulatory approval, and how to deal with overlap in talent and employees in newly acquired divisions. Whether you are contemplating M&A activity or actively part of an acquisition/disposal, our expert advisers can find and negotiate a structure to meet your needs.

### The use of social media to boost discoverability



Material from Twitter, Facebook and Pinterest amongst others can be key in boosting the discoverability of titles. But laws on copyright, advertising and privacy apply just as much to use of this material without consent as they do to 'traditionally' sourced material. By carrying out a social media MOT or advising on a current campaign we can help you avoid costly litigation and reputational damage.

### Creation of e-book platforms



Retailers and publishers selling e-books and other electronic works direct need to ensure that platform agreements adequately deal with issues such as digital rights management, competition, interoperability, pricing and VAT. We can draft, advise on and negotiate these arrangements for you.

### The age of the digital employee



This new type of employee needs new approaches on selection, incentivisation and management. They must be given the freedom to develop the company's digital approach. However, this must be backed-up with contractual protection for the company, to ensure the precious new IP, contacts or other assets created for the benefit of the company stay with the company. We can advise on the policies, procedures and contracts that will help you achieve this.

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## Why we can help

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The publishing sub-group sits within the award-winning CMS Technology, Media and Communications sector group.

Our TMC sector group includes lawyers practising in many different areas of law, covering the UK and across Western, Central and Eastern Europe. These areas include Banking & Finance, Competition, Corporate, Dispute Resolution, Employment & Pensions, Energy, Environment, Infrastructure & Project Finance, Intellectual Property, Outsourcing, Private Equity, Public Procurement, Real Estate & Construction and Tax. Some examples of our work include:

- Advising a major UK trade and educational publisher on a sensitive senior executive removal, including negotiation of terms;
- Advising on the ways the EU VAT Directive would need to be changed in order to allow the UK to treat e-books as zero-rated in the UK;
- Advising a Russian e-book platform owner on an agency agreement with another e-book platform under which our client sold e-books on the other platform's behalf;
- Acting for a major newspaper group on acquisition of Romanian printing companies and internal restructuring;
- Advising a major international academic publisher on its employee share plans and the impact of a rights issue and company redomicile on those arrangements, as well as its pension provisions;
- Advising a private equity firm on the successful sale of one of the leading Central European publishing and distribution houses of computer games;
- Advising German-headquartered company management of a major UK publishing company;
- Acting for a major international scientific and professional publisher on the acquisition of a software product for scientists for collecting and administering research literature, also featuring citing and sharing functionalities;
- Acting for a major travel books publisher on defending and ultimately settling on very favourable terms a High Court claim in excess of £1 million in connection with a team move;
- Drafting and negotiated Editor Agreement between leading UK university and major US medical research charity.



Very well geared to our way  
of doing business.

*Chambers 2014,  
Media & Entertainment*

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## Core UK team

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We also have a range of experts across our CMS jurisdictions

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